

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

JULISSA GREEN, on behalf of her minor child,)
DANASHA MCCORY, and as next friend of her)
minor grandchild, BAYLIE BELL,)

Plaintiffs,

V.

THE CITY OF CHICAGO, *et al.*

Defendants.

Case No. 22-CV-02918

Hon. Andrea R. Wood,
District Judge

Hon. Heather K. McShain,
Magistrate Judge

Jury Trial Demanded

PLAINTIFFS' RESPONSE IN OPPOSITION TO
DEFENDANTS' JOINT MOTION TO BIFURCATE *MONELL* CLAIMS

EXHIBIT F

Re: Vale, 20 C 5037

Marion Moore <Marion.Moore@cityofchicago.org>

Fri 12/23/2022 11:18 AM

To: Al Hofeld Jr. <al@alhofeldlaw.com>; Raoul Mowatt <Raoul.Mowatt@cityofchicago.org>; Larry Kowalczyk <lkowalczyk@querrey.com>; Zach Hofeld <zach@alhofeldlaw.com>; Megan Monaghan <mmonaghan@querrey.com>; James Fisher <paralegal@alhofeldlaw.com>

Hi Al,

Thanks for following-up. Yes, we agree to use the discovery from Mendez and Tate for efficiency's sake. We also generally agree with your language, with one caveat. Since this is a February 2020 incident, we do not agree that the *Monell* period goes all the way back to 2012. I do not think that that caveat changes the threshold agreement as it pertains to re-produce discovery from those cases in this case, but please let me know if I am missing something. I am trying hard to finalize our written responses to the production requests today so I will not have time to propose updated language at this moment but I can try to get something out next week. I am off/out of the office for the holidays and traveling next week, but I can try to get something out.

Thanks, and Happy Holidays,
Marion

Marion C. Moore
Chief Assistant Corporation Counsel
City of Chicago Department of Law
Federal Civil Rights Litigation Division
2 N. LaSalle St., Suite 420
Chicago, Illinois 60602
312-744-5170

From: Al Hofeld Jr. <al@alhofeldlaw.com>

Sent: Friday, December 23, 2022 10:52 AM

To: Raoul Mowatt <Raoul.Mowatt@cityofchicago.org>; Larry Kowalczyk <lkowalczyk@querrey.com>; Marion Moore <Marion.Moore@cityofchicago.org>; Zach Hofeld <zach@alhofeldlaw.com>; Megan Monaghan <mmonaghan@querrey.com>; Amanda O'Leary <paralegal@alhofeldlaw.com>

Subject: Re: Vale, 20 C 5037

[Warning: External email]

Marion and/or Raoul:

Raoul's email below did not address our agreement on our 11/28 call to use the *Mendez* and *Tate*

Monell discovery record in this case (rather than having the parties re-bates number and re-produce in discovery). I think we have an agreement on this basic, threshold issue, but Raoul's email was silent about it. We're now in the middle of written, *Monell* discovery in this case, so I want to make sure it is clear there is an agreement. If there is not, then that changes the expectations for *Monell* discovery in this case pretty drastically.

Here again is the language I proposed, which incorporates your suggestions that you made on the call:

"For the sake of efficiency and to decrease the burden and cost of Monell discovery in this case, the parties agree to adopt and designate as part of the discovery record in this case all Monell-related discovery (both documents and depositions) that was taken jointly in the Mendez and Tate cases and that covered the period 2012-2018. In light of this agreement, the parties also agree they need not produce or re-produce this same discovery again during the course of discovery in this case."

Please confirm that we have an agreement (or that we don't) and please feel free to propose revisions to this language.

(We'll reply later to the remainder of Raoul's comments below, if necessary).

Thank you.

Al Hofeld, Jr.
LAW OFFICES OF AL HOFELD, JR., LLC
30 N. LaSalle Street, Suite #3120
Chicago, IL 60602
Office: 773-241-5844
Fax: 312-372-1766
Email: al@alhofeldlaw.com
Website: alhofeldlaw.com

From: Raoul Mowatt <Raoul.Mowatt@cityofchicago.org>
Date: Tuesday, November 29, 2022 at 4:49 PM
To: Al Hofeld Jr. <al@alhofeldlaw.com>, Larry Kowalczyk <lkowalczyk@querrey.com>, Marion Moore <Marion.Moore@cityofchicago.org>, Zach Hofeld <zach@alhofeldlaw.com>, Megan Monaghan <mmonaghan@querrey.com>, James Fisher <paralegal@alhofeldlaw.com>
Subject: RE: Vale, 20 C 5037

Al,

The City and Defendant Officers have no objection to you moving to extend the deadline to amend to December 13 if necessary.

Please find attached the City's Response to Plaintiffs' First Set of Requests for Admission.

To clarify and expand some of the matters we discussed in the 37.2 on Monday:

1. The City agrees that the *Monell*-related discovery requests 46-50 represent the sort of additional discovery that was contemplated by Judge Valdez's order. As we stated, we will still maintain objections to some aspects of these requests. We said we would make those requests. However, to be clear, we reserve the right to include these requests in a potential protective order or motion to reconsider.
2. All parties agree that requests for production no. 52-61 and 63 represent requests for discovery that was not conducted in *Mendez* or *Ebony Tate*. These production requests pertain to the procurement and execution of search warrants, including statistics about the demographics of search warrant targets, audits/studies/memoranda about search warrant practices, a sampling of complaint registers for failing to properly procure and execute search warrants from 2014-2020, issues that were not litigated at all in those cases.
3. The City's position is that this greatly expands the amount of *Monell* discovery being sought in this case beyond what Plaintiffs represented to Judge Valdez would be the case, and what prompted Judge Valdez to allow *Monell* discovery to go forward. In addition, the City's position is that the search warrant procurement issues Plaintiffs seek to delve into are disproportional to the needs of this instant case, where there is no reasonable dispute that the target of the search warrant, Jesse Lazar, has connections to Plaintiffs and the residence of 1529 W. Pratt, GW in Chicago. The City asked Plaintiff to withdraw these requests.
4. Plaintiffs' position was that the discovery requests 52-61 and 63 fall within the sort of expansion of discovery that Judge Valdez contemplated in allowing *Monell* discovery to proceed. Plaintiffs declined to withdraw these requests but offered to streamline them in some fashion. You wrote "Defendants had no interest in that discussion." That is inaccurate. It is unclear to us how you may streamline the requests to not represent a fundamental expansion of *Monell* discovery, but we are open to any proposal you may make.
5. As to request 53, which seeks records pertaining to the City's Office of Inspector General's "complete investigative file," the issue the City raised is that by City ordinance, the Office of Inspector General's investigative files are privileged and confidential, as per MCC 2-56-110. I believe it likely that will preclude us from providing the records sought here. In response to a similar request for production in *Tate*, the City answered solely by objecting on that ground and on the ground of what constituted "complete."

From: Al Hofeld Jr. <al@alhofeldlaw.com>

Sent: Tuesday, November 29, 2022 3:35 PM

To: Larry Kowalczyk <lkowalczyk@querrey.com>; Marion Moore

<Marion.Moore@cityofchicago.org>; Raoul Mowatt <Raoul.Mowatt@cityofchicago.org>; Zach Hofeld <zach@alhofeldlaw.com>; Megan Monaghan <mmonaghan@querrey.com>; Amanda O'Leary <paralegal@alhofeldlaw.com>

Subject: Re: Vale, 20 C 5037

[Warning: External email]

Plaintiffs forgot to raise one other issue yesterday. Currently our deadline to amend is tomorrow. Since we do not yet have the benefit of discovery responses from defendants, will you agree to not object to an extension of our deadline to amend to a few days after we receive your responses, say December 13? Please advise. Thank you.

From: Larry Kowalczyk <lkowalczyk@querrey.com>

Date: Tuesday, November 29, 2022 at 10:13 AM

To: Al Hofeld Jr. <al@alhofeldlaw.com>, Marion Moore <Marion.Moore@cityofchicago.org>, Raoul Mowatt <Raoul.Mowatt@cityofchicago.org>, Zach Hofeld <zach@alhofeldlaw.com>, Megan Monaghan <mmonaghan@querrey.com>, James Fisher <paralegal@alhofeldlaw.com>

Subject: Re: Vale, 20 C 5037

Thanks Al- we'll defer to the City on the *Monell* discussions. Confirming the parties' mutual extension agreement for remaining written discovery responses to December 6th. All the best,

Larry

From: Al Hofeld Jr. <al@alhofeldlaw.com>

Sent: Tuesday, November 29, 2022 9:41 AM

To: Larry Kowalczyk <lkowalczyk@querrey.com>; Marion Moore <Marion.Moore@cityofchicago.org>; Raoul Mowatt <Raoul.Mowatt@cityofchicago.org>; Zach Hofeld <zach@alhofeldlaw.com>; Megan Monaghan <mmonaghan@querrey.com>; James Fisher <paralegal@alhofeldlaw.com>

Subject: Re: Vale, 20 C 5037

Good morning:

Nice to talk with everybody yesterday. I'm summarizing our 37.2 meeting yesterday:

1-I agreed to take first crack at language for an agreement for the parties to use the *Monell*-related discovery record in *Mendez* and *Tate* in this case. Let me know if the following works or if you have proposed additions:

"For the sake of efficiency and to decrease the burden and cost of Monell discovery in this case, the parties agree to adopt and designate as part of the discovery record in this case all Monell-related discovery (both documents and depositions) that was taken jointly in the Mendez and Tate cases and that covered the period 2012-2018. In light of this agreement, the parties also agree they need not produce or re-produce this same discovery again during the course of discovery in this case."

2-For the additional, 2019-2020 time-period covered by the *Monell* claim in this case, defendants agree to produce the same types and materials of *Monell* discovery that they produced in *Mendez* and *Tate*.

3-We disagree on plaintiffs' requests for production 54-61 and 63. Defendants want plaintiffs to simply drop all of these requests altogether. Plaintiffs, pointing out that the requests track their *Monell* claim in this case (i.e., paragraphs 39-46, 169 of the amended complaint), are not willing to do that but did underscore that they are willing to discuss ways of making them less burdensome on the City. Defendants had no interest in that discussion and indicated they would file a motion for protective

order.

4-Plaintiffs' RFP 53/OIG. After discussion, plaintiffs and the City agreed this request was previously served during *Monell* discovery in the *Tate* case. City indicated the requested documents may be "private." Plaintiffs doubted there's a federal discovery privilege that would protect the materials from plaintiffs' request but offered confidentiality and AEO protection. City also represented there's nothing in the investigative file regarding use of force.

Please let me know if I've missed or misstated anything.

All the best,

Al Hofeld, Jr.
LAW OFFICES OF AL HOFELD, JR., LLC
30 N. LaSalle Street, Suite #3120
Chicago, IL 60602
Office: 773-241-5844
Fax: 312-372-1766
Email: al@alhofeldlaw.com
Website: alhofeldlaw.com

From: Larry Kowalczyk <lkowalczyk@querrey.com>
Date: Monday, November 28, 2022 at 9:06 AM
To: Al Hofeld Jr. <al@alhofeldlaw.com>, Marion Moore <Marion.Moore@cityofchicago.org>, Raoul Mowatt <Raoul.Mowatt@cityofchicago.org>, Zach Hofeld <zach@alhofeldlaw.com>, Megan Monaghan <mmonaghan@querrey.com>, James Fisher <paralegal@alhofeldlaw.com>
Subject: Re: Vale, 20 C 5037

Good Morning,

Hope everyone had a nice Thanksgiving and weekend. For this afternoon's call we can use: 916-233-0790, passcode 726146- thanks!

Larry

Larry S. Kowalczyk
Querrey & Harrow, Ltd.
120 N. LaSalle Street
Suite 2600
Chicago, IL 60602
(312)540-7616

From: Al Hofeld Jr. <al@alhofeldlaw.com>
Sent: Wednesday, November 23, 2022, 3:25 PM
To: Marion Moore <Marion.Moore@cityofchicago.org>; Raoul Mowatt

<Raoul.Mowatt@cityofchicago.org>; Zach Hofeld <zach@alhofeldlaw.com>; Larry Kowalczyk <lkowalczyk@querrey.com>; Megan Monaghan <mmonaghan@querrey.com>; James Fisher <paralegal@alhofeldlaw.com>

Subject: Re: Vale, 20 C 5037

Marion, Larry and all:

Attached please find plaintiff Vale's and Khammie Lazar's answers to defendant officers' requests to admit.

Also, 2:30 Monday is fine. Can we use a conference line or should we set up a Zoom? Thanks and talk to everyone then. Have a good Thanksgiving.

Al

Al Hofeld, Jr.
LAW OFFICES OF AL HOFELD, JR., LLC
30 N. LaSalle Street, Suite #3120
Chicago, IL 60602
Office: 773-241-5844
Fax: 312-372-1766
Email: al@alhofeldlaw.com
Website: alhofeldlaw.com

From: Marion Moore <Marion.Moore@cityofchicago.org>

Date: Wednesday, November 23, 2022 at 1:17 PM

To: Al Hofeld Jr. <al@alhofeldlaw.com>, Raoul Mowatt <Raoul.Mowatt@cityofchicago.org>, Zach Hofeld <zach@alhofeldlaw.com>, Larry Kowalczyk <lkowalczyk@querrey.com>, Megan Monaghan <mmonagha@querrey.com>, James Fisher <paralegal@alhofeldlaw.com>

Subject: Re: Vale, 20 C 5037

Hi Al,

How about 2:30 on Monday? The City believes that requests 54-61 and 63 go beyond the scope of the discovery done in those cases so those are the requests we will focus on in the call.

Thank you, and have a good Thanksgiving,
Marion

Marion C. Moore
Chief Assistant Corporation Counsel
City of Chicago Department of Law

Federal Civil Rights Litigation Division
2 N. LaSalle St., Suite 420
Chicago, Illinois 60602
312-744-5170

From: Al Hofeld Jr. <al@alhofeldlaw.com>

Sent: Tuesday, November 22, 2022 12:36 PM

To: Raoul Mowatt <Raoul.Mowatt@cityofchicago.org>; Zach Hofeld <zach@alhofeldlaw.com>;
Larry Kowalczyk <lkowalczyk@querrey.com>; Megan Monaghan <mmonagha@querrey.com>;
Marion Moore <Marion.Moore@cityofchicago.org>; Amanda O'Leary
<paralegal@alhofeldlaw.com>

Subject: Re: Vale, 20 C 5037

[Warning: External email]

Raoul,

So that we can confer efficiently, please identify which of plaintiffs' discovery request(s) or parts of requests the City believes go beyond the discovery conducted in *Mendez* and *Tate*. This conference is overdue, and we would be happy to have it on November 28. At this time, our schedule is open after 10:30AM that day.

Thanks,

Al

Al Hofeld, Jr.
LAW OFFICES OF AL HOFELD, JR., LLC
30 N. LaSalle Street, Suite #3120
Chicago, IL 60602
Office: 773-241-5844
Fax: 312-372-1766
Email: al@alhofeldlaw.com
Website: alhofeldlaw.com

From: Raoul Mowatt <Raoul.Mowatt@cityofchicago.org>

Date: Friday, November 18, 2022 at 3:58 PM

To: Al Hofeld Jr. <al@alhofeldlaw.com>, Zach Hofeld <zach@alhofeldlaw.com>, Larry
Kowalczyk <lkowalczyk@querrey.com>, Megan Monaghan <mmonagha@querrey.com>,
Marion Moore <Marion.Moore@cityofchicago.org>

Subject: Vale, 20 C 5037

Counsel,

I am hoping that we can schedule a time to discuss the *Monell* discovery that Plaintiffs have propounded in this case early in the week of November 28. From the City's read, these requests go well beyond the discovery conducted in *Mendez* and *Tate*.

What might be people's availability?

Thank you.

Raoul Vertick Mowatt

Assistant Corporation Counsel Supervisor
Federal Civil Rights Litigation Division
City of Chicago Department of Law
2 N. LaSalle, Suite 420
Chicago, IL 60602
(312) 744-3283 (p)
raoul.mowatt@cityofchicago.org

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